

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30968
Docket No. MW-30181
95-3-91-3-628

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(CSX Transportation, Inc. (former Louisville
(and Nashville Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the
Brotherhood that:

- (1) The Agreement was violated when the Carrier used and permitted Trainmaster C. Christian, instead of assigning Section Foreman J. R. Lackey and Track Repairman W. A. Martin, to spike a switch down at the South end of Track A-7 at Radnor Yard on August 27, 1990. [System File 10(80)(90)/12(90-1106) LNR]
- (2) Claimants J. R. Lackey and W. A. Martin shall each be paid for two (2) hours and forty (40) minutes at their respective rates of pay."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On August 27, 1990, Trainmaster C. Christian spiked a switch at the south end of Track A-7 at Radnor Yard in order to allow a train to get into the yard and clear the main line. Covered employees repaired the switch on the following day. According to the Carrier, the action was taken so as to avoid a derailment and to prevent train delays.

Under the particular circumstances of this case, we find that the work performed by the Trainmaster was de minimis and incidental to his job duties. See Third Division Awards 10703 and 2392, the latter of which reads, in part, as follows:

"The Board recognizes the necessity of protecting the work of signalmen as it does any other group under a collective agreement. But this does not mean that the simple and ordinary work that is somewhat incidental to any position or job and requiring little time to perform, cannot be performed as a routine matter without violating the current Agreement.

* * *

The contentions of the Organization attempt to draw too fine a line and tend to inject too much rigidity into railroad operation when a reasonable amount of flexibility is essential to the welfare of both the employees and the carrier."

The claim will therefore be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 26th day of July 1995.